

Notice of Allowability

Application No.

09/828,296

Applicant(s)

CORNAY ET AL.

Examiner

Charles E. Cooley

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the request for RCE filed filed 23 NOV 2004 and the decision on petition of 8 DEC 2004.
2. ☒ The allowed claim(s) is/are 1-31.
3. ☒ The drawings filed on 05 September 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

EXAMINER'S AMENDMENT/COMMENTS

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with S. Craig Hemenway on 04 MAR 2005. Applicant was also notified that the priority claim under 35 USC 119(e) that was the issue of the petition filed 23 NOV 2004 was granted as explained below.

2. The application has been amended as follows:

Amendments to the Specification:

Please replace the paragraph beginning at page 1, line 4, with the following paragraph:

This application is a continuation-in-part of copending U.S. Patent Application Serial No. 09/707,430 filed November 6, 2000, now U.S. Patent No. 6,808,481, entitled CONCENTRIC TUBULAR CENTRIFUGE, which is a continuation of U.S. Patent Application Serial No. 09/298,272 filed April 23, 1999, entitled CONCENTRIC TUBULAR CENTRIFUGE, now U.S. Patent No. 6,142,924, which is in turn a continuation application of U.S. Patent Application Serial No. 08/950,377 filed October 14, 1997, entitled CONCENTRIC TUBULAR CENTRIFUGE, now U.S. Patent No.

5,944,648, which in turn claims the benefit of U.S. Provisional Patent Application Serial No. 60/028,556, dated October 15, 1996. U.S. Patent Application Serial Number 09/707,430 is hereby incorporated by reference herein in its entirety.

* * *

3. Claims 1-31 are pending and are allowed. Claims 32-91 have been cancelled. The above change to the specification was made to update the status of a copending parent application to complete the continuity data.

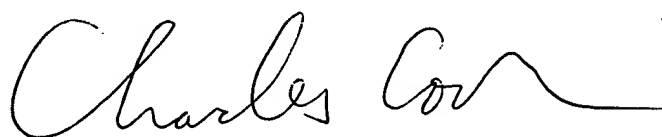
4. Regarding the decision on petition of 8 DEC 2004 (a decision on the renewed petition under 37 CFR 1.78(a)(6), filed November 23, 2004, and supplemented on December 6, 2004, to accept an unintentionally delayed claim under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(6) for the benefit of priority to the prior-filed provisional application), Applicant's claim for the benefit of provisional application 60/028,556 is considered valid under 37 CFR 1.78(a)(4) because the prior filed provisional application shares a common inventor with the instant application and discloses the named inventor's invention in at least one claim of the later filed application in the manner prescribed by 35 USC 112, first paragraph. Moreover, the provisional application was granted a filing date of OCT 15, 1996 and the basic filing fee was paid. Applicant's claim for the benefit of provisional application 60/028,556 is also considered valid under 37 CFR 1.78(a)(5) because the specification now contains a proper reference to the provisional application (see amendment to the specification filed 23 NOV 2004).

5. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably

accompany the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley whose telephone number is (571) 272-1139. The examiner can normally be reached on Mon-Fri. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Charles Cooley", with a long horizontal flourish extending to the right.

Charles E. Cooley
Primary Examiner
Art Unit 1723

04 March 2005